STATE OF UTAH
NATURAL RESOURCES
Water Rights

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Robert L. Morgan, State Engineer

Southwestern Area • 585 N. Main Street • P.O. Box 506 • Cedar City, UT 84720-0506 • 801-586-4231

July 26, 1990

Dale E. Clarkson
P. O. Box C
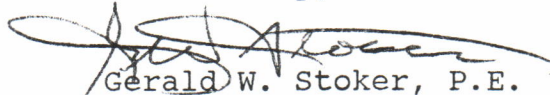Kanab, UT 84741

Re: WUC 97-1461 (A40416, Certificate 12628)

Dear Mr. Clarkson:

We have had an inquiry concerning the use of the well described under the above numbered water right near Boulder, Utah. A copy of that letter is attached for your review. If the allegation is correct and the water is being used on more acres, as well as a new place of use, than what is described on the certificate then the water is being used illegally and must cease. In the event Leo Gardner is using the well on land not described under the certificate then that is also a violation and the use must cease until proper applications are made to temporarily or permanently change the water right.

Mr. Bird has referred to WUC 97-1938 incorrectly. That claim (97-1938) is in the name of Clive Kincaid on Deer Creek and has no bearing on the use of said well. The correct WUC is 97-1461 and is limited to the 63.77 acres he referenced in his letter. We cannot agree with Mr. Bird's claim of direct interference, that the well is decreasing the available flow in Deer Creek and a spring area, but it certainly is a possibility. That type of a claim would require a great deal of geological and hydrological study before action could be taken. With our limited resources and personnel we will not become involved with a study of this nature at the present.

Please review the allegations and if they have some basis then respond to our office in Cedar City immediately. A field examination of this area of Garfield County has been planned and we will investigate the claim at that time. If you have any questions please contact Gerald W. Stoker in Cedar City.

Yours truly,

Gerald W. Stoker, P.E.
Area Engineer/Manager

cc: Lee Sim, Distribution Engineer
David J. Bird, Deer Creek Ranch
Leo Gardner

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